

From: [jaguayo](#)
To: [FOIA HQ@EPA](#)
Cc: [Stephen Lester](#)
Subject: Official request to appeal FOIA EPA-HQ-20013-007218
Date: 08/30/2013 06:00 PM

Dear Sir or Madam:

This letter constitutes an official appeal under the Freedom of Information Act of the determination made by EPA Region 7 of a FOIA request (EPA-HQ-2013-007218) filed by Jose Aguayo on June 7, 2013 for all all documents pertaining to the National Remedy Review Board's (NRRB) review of the clean-up plans for the West Lake Landfill in St. Louis, Missouri.

I received a response from Audrey B. Asher, Senior Counsel for the United States Environmental Protection Agency Region 7, and Dana Stalcup, Associate Director of HQ Superfund program office -Assessment and Remediation Division, saying that my request had been reviewed and that because the documents are considered "pre-decisional" and the reviews termed "early consultation(s)" they are not available for public review under the Freedom of Information Act.

While I appreciate the response, I do not agree with the decision to withhold the documents. The NRRB is a highly prestigious organization of experts that have reviewed close to 100 of the most contaminated sites in the US since it's creation in the 1990s. As such, there is no record of the NRRB ever withholding information. In fact, they have made every review available online for the public to see. Thus, the withholding of comments from the NRRB is highly unusual, if not unprecedented.

Although, in it's response, Region 7 refers to the involvement of the NRRB as an "optional consultation", it is by no means an "early consultation". Contrary to what was stated in the denial note, the request for review from the NRRB came relatively late in the decision-making process. The West Lake proposed remedy had been selected and sent to HQ for review several years prior (2008) to the request for NRRB review (2010). In addition, Region 7 has been adopting and incorporating specific suggestions from the NRRB such as evaluating additional groundwater sampling. Why haven't ALL of these suggestions been made public? Why have only a select few been adopted?

Finally, as attorney Audrey Asher admitted, Region 7 selected the final remedy for the West Lake Landfill before the NRRB was involved. Then, when Region 7 was forced to ask for a NRRB review by public pressure, they gave information to the NRRB that Region 7 themselves thought was not enough to make a full review. How can Region 7 come up with a proposed remedy, yet acknowledge there is not enough data for a third party (the NRRB) to make a review? This does not make sense, and borders on being suspicious.

Ultimately, the deciding factor should be the greater public good. The community surrounding the West Lake Landfill have been greatly involved in the management of the site and are worried about the potential dangers that surround them. A review by the NRRB, as the prestigious organization of experts they are, would be of immeasurable benefit for the community and would go a long way in assuring them that EPA is handling the landfill with the care it deserves.

EPA is an organization with a rich history and a tradition for the effective and transparent protection of public health. As such, I expect they continue this tradition and show their commitment to the people they serve by releasing the NRRB documents and thus assuring the people of St. Lois that their health is being safeguarded.

Jose L. Aguayo - M.S. Global Health
Center for Health, Environment & Justice - Fellow
O 703-237-2249 ext. 21 F 703-237-8389
jaguayo@gmu.edu